

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NATALIE BRUESCH,

Plaintiff,

V.

WINCO FOODS,

Defendant.

CASE NO. 2:22-cv-00113-TL

ORDER DISMISSING CASE WITH
LEAVE TO AMEND

This matter comes before the court on Plaintiff Natalie Bruesch's amended complaint

(Dkt. No. 10). Plaintiff Bruesch is bringing this case without an attorney to represent her (in other words, *pro se*). See generally *id.*

On January 29, 2022, Plaintiff filed an application to proceed *in forma pauperis*. Dkt. No.

1. While her application was granted by the United States Magistrate Judge, the judge recommended review of the complaint under 28 U.S.C. § 1915 (e)(2)(B), which requires a court to dismiss a case if it determines that the action “fails to state a claim on which relief may be

1 granted.” 28 U.S.C. § 1915(e)(2)(B)(ii); *see* Dkt. No. 5. On May 17, 2022, the Court dismissed
 2 Plaintiff’s original complaint but with leave to amend. Dkt. No. 8.

3 In the prior Order dismissing the original complaint, the Court explained that Plaintiff
 4 had not stated a proper federal law claim and gave her an opportunity to amend her complaint.
 5 *Id.* The Court also explained in the prior Order that there are two main bases for federal subject
 6 matter jurisdiction: (1) when a case arises out of federal law, or (2) where the requirements of
 7 diversity jurisdiction are met. *See id.* at 2 (briefly explaining the requirements of 28 U.S.C. §§
 8 1331, 1332). Plaintiff’s amended complaint still does not meet either of these requirements.

9 Based upon information provided in the original complaint, it appears that this suit arises
 10 from an incident that occurred in September 2020 between Plaintiff and two employees of Winco
 11 Foods at a Winco store located in Edmonds, Washington. Dkt. No. 6 at 2, 5. Plaintiff Bruesch’s
 12 amended complaint now raises as the causes of action “Assault and Battery and False
 13 Imprisonment.” Dkt. No. 10 at 3. The amended complaint states that “[o]n September 26th,
 14 2020, Defendants attacked plaintiff at a Winco Foods in Edmonds Washington.” *Id.* at 5.
 15 However, it does not specify who those individuals are, *see id.*, and the only named Defendant is
 16 a Winco Foods store. *Id.* at 2. Regardless, the claims of assault and battery as well as false
 17 imprisonment by a private entity like Defendant would be based in state, and not federal law.
 18 Therefore, Plaintiff Bruesch does not appear to have any federal law claims.

19 Further, the first amended complaint fails to provide a basis for this Court to exercise
 20 subject matter jurisdiction over the case. Even though she has alleged over \$75,000 in damages
 21 (to satisfy, at this stage, the amount in controversy requirement), *see id.* at 5, there does not
 22 appear to be complete diversity between the parties. The sole named defendant is a Winco Foods
 23 store branch in Edmonds, Washington. *Id.* at 2. Plaintiff herself resides in Washington state. *Id.*

1 at 1. Plaintiff provides no justification for bringing these claims in a federal court rather than a
2 state court.

3 Therefore, Plaintiff Bruesch's claims are DISMISSED WITHOUT PREJUDICE. The Court will
4 allow Plaintiff one more opportunity to amend her complaint **by July 21, 2022**. If the amended
5 complaint does not give rise to subject matter jurisdiction in the federal courts, it shall be
6 dismissed with prejudice (i.e., without leave to amend).

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8 Dated this 21st day of June 2022.

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11 Tana Lin
12 United States District Judge
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